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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT PAPER NUMBER

1771

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 20040122

Application Number: 09/178,396  
Filing Date: October 23, 1998  
Appellant(s): MORIN ET AL.

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Timothy Monahan  
For Appellant

**EXAMINER'S ANSWER**

**MAILED**

**JAN 30 2004**

**GROUP 1/00**

This is in response to the appeal brief filed 10/8/03.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-5, 7-11, 16-17, 19-20, and 24-30 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

5,814,567	YAHIAOUI et al	9-1998
3,902,299	ZEIDELL	9-1975

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-11, and 13-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567) in view of Zeidell (3902299).

Yahiaoui's patent is concerned with the creation of a textile fabric coated with a polymer (abstract) suitable for use as a wipe (col. 2, lines 32-34). Yahiaoui's fabric is coated with the same polymers claimed by applicant, in the same proportions (col. 7, lines 10-65 and examples 1-18). The polymer comprises polysaccharides having a plurality of pendant groups anticipating applicants claimed group (col. 6, lines 5-15; col. 7, lines 15-65). Said pendant groups inherently have an average molecular weight of 25,000 to 1,000,000 because they are composed of the same materials as applicant's claimed pendant groups.

Yahiaoui teaches the use of a woven fabric composed of a polyester fiber with a similar weight as that claimed by applicant (col. 3, line 16; col. 4, line 8; and examples 1-18).

Yahiaoui is silent with respect to the particle count of the wipe and fails to teach a laundering process.

Zeidell is concerned with the creation of fabric suitable for use as a wipe (abstract). Zeidell teaches subjecting the fabric to a laundering process (col. 4, lines 5-15 and abstract, respectively). It would have been obvious to a person having ordinary skill in the art at the time the invention made to subject Yahiaoui's wipe to the laundering processes taught by Zeidell. Such a modification would have been motivated by the desire to remove contaminants and lint from the fabric of Yahiaoui. The skilled artisan would readily recognize that removing lint and contaminants from a wipe would increase the commercial success of the wipe by improving its performance.

It is the examiner's position that Zeidell's washing process would result in the particle count property claimed by applicant. The examiner notes that the combination set forth above possesses the same fabric and polymers of applicant's invention and is subjected to the same processing treatments. If said combination does not inherently meet applicant's claimed particle count property then it would have been obvious to one having ordinary skill in the art at the time the invention was made to repeat Zeidell's laundering process to further reduce the amount of contaminants left by the wipe. The skilled artisan would have been motivated to reduce the particle count of a wipe by the

Art Unit: 1771

desire to increase its performance properties by further reducing the amount of contaminants left behind after use.

The coated fabric created by the combination of Yahiaoui and Zeidell inherently has a particle attraction coefficient of 100% or greater for one or more of the types of particles selected from applicant's claimed group, as well as a particle count of particles greater than .5 microns of 150,000 particles per square meter or less. Said fabric also inherently has an extrinsic sorbency of 3.5 mill/meter squared or greater. Yahiaoui does not specifically refer to these properties; however, the absence of a recitation of properties in the prior art is not necessarily indicative of patentability especially where, as here, the prior art teaches Applicant's claimed materials and structure. Since the wipe created by the combination of Yahiaoui and Zeidell is the same as applicant's claimed wipe, it is the examiner's position that the properties claimed in addition thereto are inherent in the wipe created by said combination. This reasoning is based on the fact that the properties claimed are dependant upon the materials from which they are made and said combination uses the same materials, structure, and process as applicant's wipe.

Yahiaoui teaches the use of a nonionic surfactant, but is silent with respect to the amount disposed on a fabric. It would have been obvious to a person of ordinary skill in the art to utilize a surfactant in the range of .5 ppm to .1% by weight. Such a weight range would have been obvious based on the reasoned expectation of rendering a fabric wettable without significantly lowering the surface tension of an aqueous medium to which the coated substrate may be exposed.

Claims 6, 12, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yahiaoui et al (5814567) in view of Zeidell (3902299) and Applicant's Admitted Prior Art (AAPA).

Yahiaoui fails to disclose said fabric saturated with a solvent and packaged in a sealed container. AAPA teaches providing additional solvents and packages for pre-saturated wipers (page 12 of specification, line 19). It would have been obvious to utilize this packaging based on the reasoned expectation of providing a pre-saturated wipe, which can be made commercially available.

**(11) *Response to Argument***

Appellant argues that there is no motivation to combine the references and that the proposed combination is based upon impermissible hindsight reconstruction (p. 6 of Appellant's brief). Specifically, applicant argues that there is no motivation to use Yahiaoui's wipe in a cleanroom (p. 6).

The instant rejection, however, is not predicated on cleanroom use. Yahiaoui teaches its fabric to be used as a wipe. Zeidell teaches a process for improving the performance characteristics of wipes. Zeidell teaches that there is often a need for cloths to be lint free and free of abrasives (col. 1, lines 24-26) when used for a variety of wiping purposes including industrial institutions, shops, plants, garages, and the like (col. 1, lines 15-17). A person having ordinary skill in the art would have been motivated to utilize Zeidell's laundering process to expand the commercial utility of

Art Unit: 1771

Yahiaoui's wipe. The further removal of lint and other contaminants would increase the performance capabilities of Yahiaoui's wipe. Moreover, applicant's argument is not commensurate in scope with the claims because the claims do not require that the invention meet cleanroom specifications.

Appellant argues that the skilled artisan would not have been motivated to launder a coated fabric (p. 7). This argument is not persuasive for two reasons. First, the wipe of Yahiaoui could be laundered to remove all lint and contaminants prior to coating. Thus, the contaminant removal process would not effect the coating.

Second, Yahiaoui teaches the coating to be durable (col. 4, lines 25-45). Yahiaoui teaches the coating to not only remain on the fabric, but remain wettable after at least ten cycles (col. 4, lines 39-40). Therefore, the skilled artisan would have a reasonable expectation of retaining a portion of the coating on the fabric after laundering.

Appellant argues that there has been a long felt need to reduce the amount of contaminants and lint left by wipes (p. 7). However, it is the examiner's position that it has never been desirable to create a wipe which left behind contaminants. The purpose of a wipe is to remove contaminants and, as illustrated by Zeidell, the desire to reduce the contaminants left behind has always been recognized in the art.

Appellant argues that unexpected particle attraction properties are achieved with the instant invention (p. 8). However, Yahiaoui utilizes appellants same coating and the inherent properties of that coating are present in the invention of Yahiaoui. For the above reasons, it is believed that the rejections should be sustained.



Application/Control Number: 09/178,396  
Art Unit: 1771

Page 8

Respectfully submitted,

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Examiner  
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January 25, 2004

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